

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

BRETT A. HILL §
v. § CIVIL ACTION NO. 6:16cv376
WARDEN BRISCOE, ET AL. §

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE
AND ENTERING FINAL JUDGMENT

The Plaintiff Brett Hill, a former inmate of the Texas Department of Criminal Justice, Correctional Institutions Division proceeding *pro se*, filed this civil rights lawsuit under 42 U.S.C. §1983 complaining of alleged violations of his constitutional rights. This Court ordered that the case be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges. As Defendants, Hill named Warden Briscoe, Captain Harris, and Captain McDowell, officials at the Beto Unit of TDCJ-CID.

Hill complained of an incident in which he was assaulted by his cellmate on June 30, 2008. He previously filed another lawsuit against the same defendants concerning the same incident, which was dismissed with prejudice by this Court. *Hill v. Briscoe, et al.*, civil action no. 6:10cv29 (E.D.Tex., November 10, 2010, appeal dismissed).

After review of the pleadings, the Magistrate Judge issued a Report recommending that the lawsuit be dismissed as duplicative and thus abusive or malicious. The Magistrate Judge also observed that Hill's claims were barred on their face by the statute of limitations. Hill received a copy of the Magistrate Judge's Report but filed no objections thereto; accordingly, he is barred from *de novo* review by the District Judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to factual findings and

legal conclusions accepted and adopted by the district court. *Douglass v. United Services Automobile Association*, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has reviewed the pleadings in this cause and the Report of the Magistrate Judge. Upon such review, the Court has determined that the Report of the Magistrate Judge is correct. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918, 109 S.Ct. 3243 (1989) (where no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law"). It is accordingly

ORDERED that the Report of the Magistrate Judge (docket no. 7) is **ADOPTED** as the opinion of the District Court. It is further

ORDERED that the above-styled civil action is **DISMISSED WITH PREJUDICE** for purposes of proceeding *in forma pauperis*. It is further

ORDERED that any and all motions which may be pending in this action are hereby **DENIED**.

So **ORDERED** and **SIGNED** this 4 day of **January, 2017**.



Ron Clark
Ron Clark, United States District Judge